

**GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT**

Suits – High Court of A.P. – W.P.No.9780/1999 filed by Bantharam Bichappa and W.P.No.13603/2003 file by Dr. Tayi Venkata Subbarao, Narasapur Municipality – Orders of High Court, Dt.28.03.2000 & Dt.31.03.2011 – Instructions – Issued.

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**MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (J1) DEPARTMENT**

**G.O.Ms.No.243,**

**Dated:28.06.2011.**

Read the following:-

1. From the High Court of A.P., orders in W.P.No.9780/1999, Dt.28.03.2000.
2. From the High Court of A.P., orders in W.P.No.13603/2003, Dt.31.03.2011.

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**ORDER:-**

The Hon'ble High Court in its order 1<sup>st</sup> read above, has held that "Every citizen in this country has right to possess property and it is settled law that a citizen cannot be deprived of his property ordinarily but in the interests of the State the property can be taken away subject to limitations prescribed by law. Therefore, a fullfledged Code has been enacted in the form of Land Acquisition Act. The State has no power or authority to enter into anybody's property unless and until a notification under Section 4 of the Land Acquisition Act is promulgated. Here is a case where land was taken, it was put to use and even the notification assuming the jurisdiction to acquire the land has not been issued. This position was conceded at the Bar, therefore, this court issued show-cause notice to the officers concerned who have filed their reply. The Officers have not justified their action but have tried to explain by taking recourse to public interest and also suggested that the land had been taken possession of with the consent of the petitioners. No such consent was produced before the court and even if it is accepted that the owners (petitioners) had given oral consent for handing over the possession to the officers were not within their rights to take over the possession because those officers were acting as the agents of the Government and the Government could enter into a private property only after assumption of jurisdiction which could be assumed only after issuance of notification under Section 4(1) of the Land Acquisition Act. Since the Government had not assumed the Jurisdiction to acquire the property, therefore the officers of the Government even with the consent of the parties concerned were not right in taking over the possession of the land. Section 4 (2) of the Land Acquisition Act makes it lawful for any officer who is generally or specially authorized by the Government to enter upon land which is notified in terms of Section 4(1). Therefore it is clearly laid down that no officer of the State Government is authorized to enter upon or take possession of the land belonging to private individuals unless and until a notification under Section 4(1) is published".

2. The Hon'ble High Court further directed the Chief Secretary, Government of Andhra Pradesh to issue a circular to all the Government Officials directing them not to enter into private properties except through due process of law which would mean, after assuming the jurisdiction to acquire the land or property in accordance with the provisions of Land Acquisition Act.

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3. All the Secretariat Departments/Heads of Departments/District Collectors are therefore directed to take action strictly as per the above Judgment in cases relating to acquisition of private properties and not to enter into private properties except through due process of law which would mean, after assuming the jurisdiction to acquire the land or property in accordance with the provisions of Land Acquisition Act.

4. They are also directed to issue necessary instructions to all the Subordinate Officers to follow the above directions in variably, failing which the same may be viewed seriously. Appropriate disciplinary proceedings shall be initiated against officers violating these instructions

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)**

**S.V. PRASAD  
CHIEF SECRETARY TO GOVERNMENT**

To  
All the Secretariat Departments.  
All the Heads of Departments.  
All the District Collectors.  
Copy to:  
The P.S to Chief Secretary to Government, GA Department.  
The P.S to Principal Secretary(UD)/Secretary(MA).  
The Commissioner and Director of Municipal Administration,  
Hyderabad with a request to issue necessary instructions to all the  
Corporations/Municipalities.  
The Commissioner, Greater Hyderabad Municipal Corporation,  
Hyderabad.

//FORWARDED BY ORDER//

SECTION OFFICER